

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 5, 2002

LB 385

SENATOR LANDIS: That would be fair to say.

SENATOR BEUTLER: Would that be accurate?

SENATOR LANDIS: That would be fair to say, yes.

SPEAKER KRISTENSEN: One minute.

SENATOR BEUTLER: Okay. And I would suggest to you that when you allow an instrument like this to be created that the will of the trustee will be the will of the trustor as best as that trustee can ascertain it, and that what the trustor wants to do is what will be done. And so even though as a technical legal matter the trustee has power to do otherwise, I think there's a question of whether the trustee would have the will to do otherwise. I think, and, Senator Landis, let me ask you one...one more question. Right now the rule that we have is close to or exactly the uniform rule...

SPEAKER KRISTENSEN: Time.

SENATOR BEUTLER: ...against perpetuities, is it not?

SPEAKER KRISTENSEN: Senator Hartnett.

SENATOR HARTNETT: Mr. Speaker, members of the body, Senator Landis, I think Senator Beutler, in his bringing up this issue to indefinitely postpone, mentioned the state of South Dakota. Is this a movement, I guess, by bankers, I guess that's who he characterizes the people with the black hat in this issue, to move others...are there other states moving with this type of movement in this way? And you mentioned that you could postpone estate taxes for one generation or something. I think, Senator Wickersham, last week, I think, in his bill, said, well, if you die, and how you want to avoid it is die, and I think it was the year 2010. Yeah, when (inaudible) die and then you will avoid it because there is no...there is no estate tax. Could a person transfer this trustee, say that South Dakota does? The way we have in the state, we have estate taxes and we also have inheritance taxes. Could I transfer the trustee, even though